

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**In the Matter of
IP-Enabled Services**

**E911 Requirements for IP-Enabled
Service Providers**

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WC Docket No. 04-36

WC Docket No. 05-196

JOINT REPLY COMMENTS OF USA DATANET, INC. AND MY PEOPLE

USA Datanet, Inc. (“USA Datanet”)¹ and my people (“my people”)² (collectively “Joint Commenters”), by their attorneys, respectfully submit these Reply Comments in response to the Federal Communications Commission’s (“Commission’s”) June 3, 2005 Notice of Proposed Rulemaking in the above-captioned proceedings.³ Both USA Datanet and my people have a keen interest in ensuring that the services they provide contribute to public safety by serving the needs of their subscribers while leveraging the full potential of Voice over Internet Protocol (“VoIP”) technology.

I. INTRODUCTION

In the NPRM, the Commission seeks comment on proposed additional regulations that would apply to the provision of emergency 911 (“E911”) services by providers of

¹ USA Datanet was an early “first adopter” of IP technology and a pioneer in the deployment of many different IP-based services, including voice applications. USA Datanet installed the nation’s first production SONUS network so that it could provide high quality and reliable IP-based services, including voice applications, to its customers. The Company chose to build its IP-based data network from the ground up rather than modify an existing network optimized for circuit-switched services because USA Datanet seeks to offer its customers the full range of benefits that IP-based services can make available. USA Datanet now uses its network to provide communications services to several hundred thousand residential and small business customers.

² my people will soon begin offering communications services that utilize Voice over Internet Protocol-based technology.

³ *In re Matters of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, DA 05-1905 (June 3, 2005) (“NPRM”).

interconnected VoIP services. USA Datanet and my people urge the Commission to take a broader view of public safety, and to refrain from adopting additional VoIP E911 regulations at this time. The premature adoption of E911 regulations would inhibit the development of advanced VoIP E911 technologies and deny some subscribers from access to VoIP services altogether. Instead, the Commission should adopt a broader view of “public safety” in recognition of the real public safety benefits that VoIP services can offer even where access to traditional E911 may not be available.

The role VoIP services played in the aftermath of Hurricane Katrina provide a perfect example of the need to expand the concept of “public safety.” New Orleans public officials were able to communicate using VoIP services when all other forms of communications, including wireline, satellite telephone and cellular service, were unavailable for days after the hurricane struck.⁴ Although access to E911 is desirable, denying access to VoIP services where access to E911 is unavailable would eliminate an important potential means of emergency communications for many citizens, whether during a catastrophic event like Hurricane Katrina or during a personal emergency where VoIP services could be used to reach a friend or relative. It would be regrettable indeed if the Commission’s efforts to facilitate the availability of VoIP E911 had the inadvertent result of making citizens less safe by denying them access to an important means of communications they could use during an emergency.

⁴ See Christopher Rhoads, *Cut off: At center of crisis, city officials faced struggle to keep in touch*, Wall Street Journal, Sept. 9, 2005, at A1.

II. ADDITIONAL VOIP E911 REGULATIONS ARE UNNECESSARY AT THIS TIME

VoIP providers are in the midst of taking the actions necessary to comply with the Commission's recent emergency service requirements. The imposition of additional VoIP E911 regulations at this time would only hamper their efforts. Rather than imposing additional VoIP E911 regulations, the Commission first should evaluate the effectiveness of the current E911 regulations,⁵ and assess whether compliance with those regulations will be feasible by the current compliance deadline.

USA Datanet and my people also agree with parties who observed that the continued expansion and development of VoIP services, and the concomitant increase in the competitive market for telecommunications, likely would be delayed or diminished if the Commission moves too quickly to implement new regulations.⁶ For example, the Commission should refrain from requiring providers of interconnected VoIP service and the VoIP-related equipment to be capable, by June 2006, of automatically passing caller location information on all emergency service calls. As evidenced by the initial comments filed in this proceeding, few VoIP providers support this requirement, and even those who are working to develop the capability believe it is highly unlikely that any VoIP providers will be capable of complying with such a requirement by the Commission's proposed June 2006 deadline.⁷

⁵ See also, e.g., Bellsouth Corporation ("BellSouth"), at 3 (advocating Commission review of adequacy of current regulations); SBC Communications, Inc. ("SBC"), at 3-4, 10 (same); Verizon, at 3 (same); National Association of State Utility Consumer Advocates ("NASUCA"), at 16 (need for additional regulation should be based on compliance with current regulations).

⁶ See, e.g., Center for Democracy et al., at 11; Bellsouth, at 6, 9; see also Comment of Martin Alix; Comment of Edgardo Balansay.

⁷ See, e.g., AT&T, Corp. ("AT&T"), at 6; Cisco Systems, Inc. ("Cisco"), at 9-10; Information Technology Industry Council ("ITIC"), at 6-7; Motorola, Inc. ("Motorola"), at 2; Verizon, at 3-4; Vonage America, Inc. ("Vonage"), at 7; see also NENA, at 9; Texas 9-1-1 Alliance, at 19.

If the Commission nonetheless decides to implement caller location information requirements, the agency should allow VoIP providers to select the methods used to provide this information instead of mandating a particular technology.⁸ As some commenting parties noted, the Commission need only look to the CMRS proceeding as an example of the problems that can arise when a specific solution is mandated in a still-developing industry.⁹ USA Datanet and others agree with commenters that many VoIP providers currently are working to develop market-based solutions to this issue and the Commission should allow these industry efforts to continue.¹⁰

The Joint Commenters support the efforts of the VoIP industry to develop an IP-enabled emergency system and agree with the many commenters that recognize the importance of developing an IP-enabled emergency service system as the most efficient long term solution.¹¹ It would be wasteful for the Commission to require VoIP providers to expend valuable resources to build facilities that duplicate the current emergency services system.¹² The current emergency services system does not serve the public equally, as demonstrated by the issues faced by persons with disabilities, and a swift transition to an IP-enabled system could resolve some of these disparities in a way that is efficient and minimizes costs.¹³

⁸ See also, e.g., CTIA, at 7-8 (discouraging Commission mandate of a specific technology to meet E911 goals); iPosi, Inc. ("iPosi"), at 9 (same); NASUCA, at 13 (same); SBC, at 9-10 (same); Time Warner Inc. ("Time Warner"), at 9 (same); United States Telecom Association ("USTA"), at 2 (same).

⁹ See, e.g., AT&T, at 7; CTIA, at 7-8; Earthlink, Inc., at 3.

¹⁰ See, e.g., BellSouth, at 6; CTIA, at 7-8; New Jersey Board of Public Utilities ("NJBPU"), at 5-6; Qwest Communications Corporation ("Qwest"), at 1-2, 5-8; SBC, at 6-7; Skype Communications, SA ("Skype"), at 18-21; Time Warner, at 9; United Online, at 11; USTA, at 3-4.

¹¹ See, e.g., Center for Democracy *et al.*, at 12-13; Global IP Alliance, at 1; National Emergency Number Association ("NENA"), at 13; Rehabilitation Engineering Research Center on Telecommunications Access, at 7; United Online, Inc. ("United Online"), at 18.

¹² See also, e.g., NENA, at 13 ("investments in the 9-1-1 network may in fact be better spent on advancing to a next generation system").

¹³ See also, e.g., United Online, at 19-20 ("[w]hile United Online supports the goal of making VoIP 911 services more accessible to disabled persons, it is concerned about who should bar the cost associated

III. CONCLUSION.

For the foregoing reasons, USA Datanet and my people urge the Commission to take a broader view of public safety, and to refrain from adopting additional VoIP 911 regulations at this time.

Respectfully submitted,



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with implementing the necessary technology to allow such access"); AT&T, Corp. ("AT&T"), at 13-14 (discussing difficulties experienced by TTY users).